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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,566	06/07/2000	Scott Andrew Fagen	POU9-1995-0064-US2	9642

7590 02/25/2002

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EXAMINER

FIELDS, KENNETH WAYNE

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 02/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/589,566

Applicant(s)

Fagen et al

Examiner

Kenneth Fields

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 13-28 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-15, 18-20, and 23-26 is/are rejected.
- 7) ☒ Claim(s) 16, 17, 21, 22, 27, and 28 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Specification***

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claims 13-15, 18-20 and 23-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Benayoun et al (US 5,771,227).

As set forth in claims 13, 18, 23 and 24, Benayoun discloses a method of dynamically changing message flow, said method comprising: processing a plurality of messages within a network of processes (col. 2, lines 11-17); and dynamically changing the network, while one or more of the plurality of messages are being processed (col. 1, lines 59-63 and col. 2, lines 17-24).

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As set forth in claims 14, 19 and 25, Benayoun discloses a system wherein dynamically changing the network comprises adding a process to the network (col. 1, lines 59-63 and col. 2, lines 17-24).

As set forth in claims 15, 20 and 26, Benayoun discloses determining completion of a problem associated with one or more of the plurality of messages (i.e., how to route the message), although said network has changed (col. 2, lines 24-42).

#### *Claim Objections*

4. Claims 16, 17, 21, 22, 27 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Trugman (US 5,887,141), Hart (US 5,752,003), Thanner et al (US 5,732,072), Wicki et al (US 5,740,346), Galaand et al (US 5,495,479) and Schwaller et al (US 6,061,725) disclose message passing systems which dynamically alter a network.


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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Fields whose telephone number is (703) 308-4954.

The fax phone number for this art unit is (703) 305-7201. Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the technology center receptionist whose telephone number is (703) 305-3900.

*KF*

Kenneth Fields  
February 7, 2002

  
GLENTON B. BURGESS  
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